

Discussion

In the *Telco Act of 1996*, Congress directed the FCC and the State Commissions to take steps necessary to establish support mechanisms to ensure the delivery of affordable telecommunications service to all Americans, including low-income consumers, eligible schools and libraries, and rural healthcare providers. The *Telco Act of 1996* requires that states establish intrastate discounts on designated (but not limited to named) services provided eligible schools and libraries.²

While Section 254(h)(1)(B) of the *Telco Act* permits the states to determine the level of discount available to eligible schools and libraries with respect to intrastate services, the FCC states in paragraph 550 of its Order that the *Telco Act* does nothing to prohibit federal funding of such intrastate discounts, nor does it prohibit conditioning that funding on state adoption of the federal discount levels. Accordingly, the FCC has decided to exercise its authority to provide federal universal service support for intrastate discounts. No state funding is required for these intrastate discounts, as long as the FCC discount levels are adopted. The participating providers, such as a Local Exchange Carrier (LEC), referred to as "carriers" throughout the FCC Order, will be compensated for the discounts provided to schools and libraries completely through the federal universal service fund. It should be carefully noted that this funding is not supplemental to state funding, and that when the Federal funds for this purpose are exhausted, the State of Tennessee has no current plans to provide additional or supplemental funding. Adoption of the FCC funding plan does not, however, preclude the State of Tennessee from addressing funding to this program in the future.

² Specifically, the *Act* states: "All telecommunications carriers serving a geographic area shall, upon a bona fide request for any of its services that are within the definition of universal service under subsection (c)(3), provide such services to elementary schools, secondary schools, and libraries for educational purposes at rates less than the amounts charged for similar services to other parties. The discount shall be an amount that the [FCC], with respect to interstate services, and the States, with respect to intrastate services, determine is appropriate and necessary to ensure affordable access to and use of such services by such entities. 47 U. S.C. 254(h)(1)(B)."

The discounts range from 20 percent to 90 percent for all eligible telecommunications services, internet access, and internal connections, subject to a \$2.25 billion annual cap. The discounts are to be applied to a pre-discount price. That price must be no higher than the lowest price the carrier charges to similarly situated non-residential customers for similar services. The pre-discount price is the total price that the providers such as a Local Exchange Carrier (LEC) would receive for the services they sell to schools and libraries. The schools and libraries would pay the carrier only the discounted rate, and the carrier would receive the amount of the discount from universal service support mechanisms.³ The FCC is not requiring a carrier to file new tariffs to reflect the discounts it has applied for schools and libraries, but rather, discounts will be applied to existing tariff rates where appropriate.⁴

The range of discounts is correlated to students' eligibility for the national school free and reduced lunch program, and urban or rural location based on metropolitan statistical areas (MSAs). The following discount matrix has been adopted by the FCC:

Percent of Students Eligible		Discount Level	
	Schools in Category Estimated %	Urban Discount %	Rural Discount %
<1	3	20	25
1-19	31	40	50
20-34	19	50	60
35-49	15	60	70
50-74	16	80	80
75-100	16	90	90

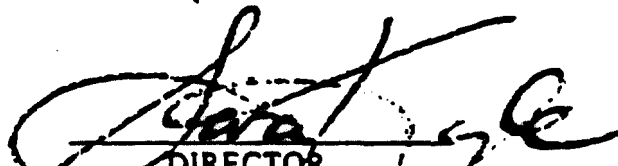
³ The pre-discount price is the price of most significance to providers of services to schools and libraries. The pre-discount price is also highly significant to schools and libraries because they must pay the undiscounted portion of the price. The FCC believes that this will give schools and libraries a strong incentive to secure the lowest pre-discount price.


⁴ In its *Order*, in *Section 484*, the FCC clarified that the tariffed rate of a carrier would represent a carrier's lowest corresponding price in a geographic area in which that carrier has not negotiated rates that differ from the tariffed rate.

IT IS THEREFORE ORDERED THAT:

1. Upon consideration, we adopt the discount matrix contained in FCC Order No. 97-157, FCC Docket 96-45, and represented in this Order for purposes of permitting schools and libraries to receive federal funding. By adopting this matrix, we do not waive the right to file an appeal on matters contained in the FCC Order with the appropriate court of law or other entity.
2. That any party aggrieved with the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within ten (10) days from and after the date of this Order.
3. That any party aggrieved with the Authority's decision in this matter has the right of judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this Order.


CHAIRMAN


DIRECTOR


DIRECTOR

ATTEST:


EXECUTIVE SECRETARY

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

**IN RE: UNIVERSAL SERVICE
GENERIC CONTESTED CASE**

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) **DOCKET NO. 97-00888**
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**ORDER ESTABLISHING INTRASTATE DISCOUNTS FOR SCHOOLS
AND LIBRARIES PURSUANT TO SECTION 254(h) OF
THE TELECOMMUNICATIONS ACT OF 1996 AND FCC ORDER 97-157
SUPPLEMENTAL INFORMATION**

Frequently Asked Questions on Universal Service and the *Snowe-Rockefeller-Exon-Kerrey Amendment* Released July 2, 1997 by the Federal Communications Commission.

On May 8, 1997, the Federal Communications Commission (Commission) released a Report and Order on Universal Service. *Section 254(h)* of the *Telecommunications Act of 1996*, better known as the *Snowe-Rockefeller-Exon-Kerrey Amendment*, states that schools and libraries should have access to telecommunications services for educational purposes at discounted rates.

1. Eligibility for Universal Service Discounts

#1 Q: Which schools are eligible to receive discounts?

A: The Commission concluded that, to be eligible for universal service discounts, a school must meet the statutory definition of an elementary or secondary school found in the Elementary and Secondary Education Act of 1965, must not operate as a for-profit business, and must not have an endowment exceeding \$50 million. Both public and non-public elementary and secondary schools that meet these criteria, will be eligible to receive discounts on eligible services.

#2 Q: Which libraries are eligible to receive discounts?

A: The Commission concluded that, to be eligible for universal service discounts, a library must operate as a not-for-profit business and must be eligible for assistance from a state library administrative agency under the Library Services and Technology Act (LSTA). In addition, while the definition of library in the LSTA includes public libraries, public elementary or secondary school libraries, academic libraries, research libraries that are not affiliated with an

institution of higher education, and private libraries subject to state determination, the Commission concluded that a library's eligibility for universal service discounts funding will depend on its funding as an independent entity. "Independent" means that the budget of the library must be completely separate from that of any institution of learning. For example, because institutions of higher education are not eligible for universal service discounts, an academic library will only be eligible if its funding is completely separate from the funding of any institution of higher education. On the other hand, a library within an eligible school will be entitled to receive discounted services as part of the school.

#3 Q: Will eligible schools and libraries applying for discount funding be allowed to aggregate their demand for telecommunications service with others?

A: Yes. The Commission encourages eligible schools and libraries to aggregate their demand with others to create a consortium with sufficient demand to attract competitors and negotiate lower rates. It is important to note that entities not eligible for universal service discounts will benefit from lower pre-discount prices from such aggregation, but they will not be permitted to gain eligibility for discounts by participating in consortia with those who are eligible. Clearly, this will place responsibility on consortia to keep careful records of their expenses so that only the eligible entities receive the discounts.

#4 Q: With whom will eligible schools and libraries be permitted to aggregate demand?

A: Eligible schools and libraries may aggregate demand with other eligible schools and libraries, rural health care providers, public sector (governmental) entities, and/or private sector entities. Schools and libraries that join consortia composed only of other schools and libraries, rural health care providers, and public sector (governmental) entities may, under the Communications Act, receive below tariff rates on any eligible tariffed services they order. Eligible schools and libraries participating in consortia that include private sector entities may receive a universal service discount only if any interstate services that such consortia receive from incumbent local exchange carriers are provided at generally tariffed rates.

II. Services and Functionalities Eligible for Discounts

#5 Q: What services and functionalities did the Commission find eligible for discounts?

A: Eligible schools and libraries will be able to purchase all commercially available telecommunications services, Internet access, and internal connections at discounted rates.

#6 Q: What does the Commission mean by "all commercially available telecommunications services"?

A: Because the Commission wanted to ensure that schools and libraries have maximum flexibility to purchase different packages of services at a discount, the Commission did not recommend a standard telecommunications package, but concluded that it would be more

efficient to let schools and libraries determine what services they need and want. The Order allows schools and libraries to choose from a wide array of telecommunications services and technologies, including, for example, basic telephone service, a T-1 line, and wireless telecommunications services.

#7 Q: What did the Commission decide about schools' and libraries' use of the Internet?

A: The Commission concluded that eligible schools and libraries should receive discounts on non-content Internet access, which includes electronic mail (e-mail). Discounts will not apply to the "content" that some information service providers bundle in a package with Internet access, unless such a bundled service would be the most cost-effective conduit to the Internet. For example, eligible schools and libraries will not receive discounted access to an Internet subscription service unless the Internet gateway it provides is the most cost-effective way for them to access the Internet.

#8 Q: What components of internal connections will be eligible for discounts?

A: The Commission concluded that both installation and maintenance of internal connections should be eligible for discounts. Eligible schools and libraries may select both the technology and provider that best meet their needs. For example, eligible schools and libraries may select wireline, wireless, or cable technology provided by either a telecommunications carrier or a non-telecommunications carrier. The Commission specifically noted that equipment needed to transport information within a school or library should be eligible for discounts, including routers, hubs, network file servers (including the necessary software), and wireless local area networks (LANs).

#9 Q: What services will not be eligible for universal service discounts?

A: Equipment such as computers (with the exception of network file servers) and other hardware, software (with the exception of the software required for the operation of network file servers), fax machines, modems, teacher training, upgrades to the electrical system, and asbestos removal will not be eligible for discounts.

III. Discounts

#10 Q: What are the levels of discount for which eligible schools and libraries may apply?

A: The Commission established a matrix that will provide discounts ranging from 20% to 90% on all commercially available telecommunications services, Internet access, and internal connections. The level of discount will be based on a school's or library's level of economic disadvantage and its location in an urban or rural area. Here is the Commission's discount matrix:

Percent of Students Eligible		Discount Level	
	Schools in Category Estimated %	Urban Discount %	Rural Discount %
<1	3	20	25
1-19	31	40	50
20-34	19	50	60
35-49	15	60	70
50-74	16	80	80
75-100	16	90	90

#11 Q: How will a school's level of economic disadvantage be determined?

A: A school's level of economic disadvantage will be defined by the percentage of its students eligible for either a free or reduced price lunch under the national school lunch program. That is, a school will determine the percentage of its students whose family income falls within 185% of the poverty line. It is important to note that schools need not participate in the national school lunch program in order to compute their level of economic disadvantage for purposes of applying for universal service discounts. A school that either does not participate in the national school lunch program or that experiences a problem with undercounting eligible students may use federally approved alternative mechanisms to determine the percentage of their students eligible for the school lunch program. A description of federally approved alternative mechanisms can be found at 34 C.F.R. § 200.28(a)(2)(i)(B). For example, a school may choose to conduct a survey or use eligibility for a tuition scholarship program to determine the percentage of its students eligible for the national school lunch program for purposes of applying for universal service discounts.

#12 Q: How will a library's level of economic disadvantage be determined?

A: A library's level of economic disadvantage will be based on the percentage of students eligible for the national school lunch program in the school district in which the library is located.

#13 Q: Will each individual school and library be required to apply for discounted services separately and submit its percentage of students eligible for the national school lunch program to the universal service administrator?

A: No. If a state, group of schools or libraries, or a school district applies for discounted services on behalf of its schools, the procurement officer must certify to the universal service administrator the percentage of students in each of its schools that is eligible for the national school lunch program. The school district or the state may decide to compute the discounts on an individual school basis or it may decide to compute an average discount. (See question 14.) In

either case, the state or the district should strive to ensure that each school receives the full benefit of the discount to which it is entitled. Similarly, libraries ordering discounted services at the library system level must certify to the percentage of students eligible for the national school lunch program in each of the school districts in which its branches are located. The library system may compute discounts on either an individual branch basis or based on an average of all branches within the system, but should strive to ensure that each branch receives the discount to which it is entitled.

#14 Q: How will a school district or a state ordering services on behalf of its eligible schools calculate an average discount?

A: The school district or state will determine the number of students eligible for the school lunch program and will divide that number by the total number of students in the school district or state. This calculation will yield the district-wide or state-wide level of poverty. The school district or the state will then consult the discount matrix to determine the level of discount to which it is entitled.

#15 Q: If a library system orders services on behalf of its branches and has branches located in different school districts, how will that library system calculate an average discount?

A: The library system will determine the discount to which each of the school districts in which its branches are located is entitled. The library system will then add the discount percentages and divide by the number of branches, which will yield the system-wide discount percentage.

#16 Q: How will an eligible school or library determine whether it is located in an urban or a rural area for purposes of applying for universal service discounts?

A: The Commission concluded that, for purposes of the schools and libraries discount program, rural areas should be defined in accordance with the definition adopted by the Department of Health and Human Services Office of Rural Health Policy (ORHP/HHS). ORHP/HHS uses the Office of Management and Budget's Metropolitan Statistical Area (MSA) designation of metropolitan and non-metropolitan counties, adjusted by the most recent Goldsmith Modification, which identifies rural areas within large metropolitan counties. Both the list of MSAs and the Goldsmith Modification will be posted on the Common Carrier Bureau's homepage (www.fcc.gov/ccb) and on the FCC's education webpage (www.fcc.gov/learnnet).

#17 Q: How will the discount program actually work? Who will receive funds from the universal service administrator?

A: Schools and libraries will only be required to pay the portion of their bill remaining after the discount has been applied. For example, a school that is eligible to receive a 60% discount will be required to pay only 40% of the bill. It will be up to the service providers providing

discounted services to apply for reimbursement of the remaining 60% of the bill from the universal service administrator.

IV. Funding

#18 Q: How much money will be available each year for the schools and libraries discount program?

A: The Commission concluded that there should be an annual cap of \$2.25 billion on universal service expenditures for eligible schools and libraries.

#19 Q: What is the funding year for the schools and libraries program?

A: The funding year will be the calendar year.

#20 Q: What is the source of the money used to pay for universal service discounts?

A: All telecommunications carriers that provide interstate telecommunications services are required to contribute to universal service support mechanisms. Telecommunications carriers required to contribute will receive bills from the universal service administrator; their assessments for the schools and libraries discount program will be based on their interstate and intrastate end-user telecommunications revenues.

#21 Q: How will the universal service administrator know how much money to collect for the schools and libraries program?

A: Because the schools and libraries program is new and demand cannot be predicted with certainty, the Commission concluded that collection should be based on demand as that demand becomes known.

#22 Q: How will collection and spending for schools and libraries work in the first year of the program?

A: The Commission concluded that collection and spending for the period through June, 1998, should be limited, in light of both the need to implement the necessary administrative processes and the need to make the fund sufficiently flexible to respond to demand. That is, the Commission directed the universal service administrator to collect \$100 million per month during the first quarter of 1998 and up to \$700 million in the second quarter. The Commission also stated that the universal service administrator could collect up to \$1.25 billion in the last half of 1998.

#23 Q: How will collection and spending for schools and libraries work in subsequent years of the program?

A: Collection and spending for the universal service discount program will continue to depend upon demand for amounts under the \$2.25 billion annual cap. The Commission directed the universal service administrator to report on a quarterly basis to the Commission on two aspects of universal service: (1) the total amount of payments made to service providers providing eligible services to schools and libraries at a discount; and (2) the administrator's determination of funding requirements necessary to meet projected demand for the next quarter. Both of these reporting requirements will help the administrator and the Commission gauge the level of demand for schools and libraries universal service funding.

#24 Q: What happens if demand in a particular year falls below the annual cap of \$2.25 billion?

A: The Commission stated that, if less than \$2.25 billion is spent in calendar year 1998, no more than half of the unused portion can be spent in calendar year 1999. If the amount allocated in calendar years 1998 and 1999 is not spent, no more than half of the unused portion for those two years can be spent in calendar year 2000.

#25 Q: What happens if demand in a particular year exceeds the annual cap of \$2.25 billion?

A: If during any given year only \$250 million remains available for funding discounts, a priority system will go into effect under which the most disadvantaged schools and libraries that have not yet requested universal service funding will have first priority for remaining funds. If the \$250 million trigger is reached, the universal service administrator will ensure that a message is posted on the administrator's website, notify the Commission, and take reasonable steps to notify the educational and library communities that commitments for allocating the remaining \$250 million will be made only to the most disadvantaged schools and libraries for the next 30 days (or the remainder of the funding year, whichever is shorter). That is, during the 30-day period, applications from schools and libraries will continue to be accepted and processed, but the administrator will only commit funds to support discount requests from schools and libraries that are in the two most-disadvantaged categories of the discount matrix and that did not receive universal service discounts in the previous or current funding years. To avoid discouraging schools and libraries from applying for discounts on basic telephone service, however, schools and libraries that are in the two most-disadvantaged categories will not forfeit their priority status if they have previously applied only for discounted basic telephone service.

#26 Q: What happens if funds still remain after the initial 30-day period has elapsed?

A: If uncommitted funds still remain after the initial 30-day period, pending requests from schools and libraries in the two most disadvantaged categories that have previously received universal service discounts will be honored. If funds still remain, the administrator will allocate the remaining available funds to schools and libraries in the order that their requests were received until the \$250 million is exhausted or the funding year ends.

V. Restrictions Imposed on Schools and Libraries

#27 Q: Are eligible schools and libraries permitted to resell the discounted services they receive?

A: No. The Act bars schools and libraries from reselling services purchased pursuant to a universal service discount, and the Commission concluded that the Act should be interpreted to restrict any resale of services purchased under the universal service discount program to entities that are not eligible for support. The Commission also concluded that this prohibition on resale does not prohibit an eligible school or library from charging fees for any services that schools or libraries purchase for which they receive no universal service discounts. For example, an eligible school or library may assess computer lab fees to help defray the cost of computers or training fees to cover the cost of training teachers or library personnel because neither of these purchases are subject to universal service discounts.

VI. Applying for Discounts

#28 Q: What must schools and libraries do before applying for discounted services?

A: Schools and libraries must prepare technology plans covering both the near term and the future. Technology plans should specify how schools and libraries plan to integrate the use of these technologies into their curriculum. The Commission concluded that, to ensure that these technology plans are based on the reasonable needs and resources of the applicant and are consistent with the goals of the program, the plans must receive independent approval, ideally by a state agency that oversees schools or libraries. In addition, the Commission is working with the U.S. Department of Education to develop alternative approval procedures.

#29 Q: If a school or library has a technology plan that has already been approved for another purpose, will that school or library have to go through another approval process?

A: No. Plans that have been approved for other purposes, e.g., for participation in federal or state programs such as "Goals 2000" or the Technology Literacy Challenge, will be accepted without need for further independent approval.

#30 Q: What do states have to do before their schools and libraries may apply for discounted services?

A: Before their schools and libraries are eligible to apply for discounted services, states must adopt a discount matrix for intrastate services with entries at least equal to those in the discount matrix for interstate services adopted by the Commission. It is important to note, however, that the federal universal service support mechanism will pay for schools' and libraries' discounts on both intrastate and interstate services.

#31 Q: How will schools and libraries apply for discounted services?*

A: Schools and libraries will be required to participate in a competitive bidding process in order to apply for discounted services. Schools and libraries will be required to complete an

application which will include a description of the services requested, self-certification of the percentage of students eligible for the national school lunch program, and self-certification that the school or library is eligible to participate in the universal service discount program and that it will not resell any discounted services. The completed application will be submitted to the universal service administrator, who will post it on a website dedicated exclusively to this purpose. Competing providers will then have the opportunity to bid on the schools' and libraries' descriptions of services. Schools and libraries will be required to wait four weeks after their applications are posted on the website before they may sign contracts with their chosen service providers.

*On July 10, 1997, the FCC issued an Order on Reconsideration in Docket Number 96-45. This reconsideration addressed the May 8, 1997, Universal Service Report and Order. In paragraph 2 the Order on Reconsideration stated:

With respect to schools and libraries, we conclude that an eligible school or library is not required to comply with the competitive bidding requirement for any contract telecommunications services that it signs after November 8, 1996 and before the competitive bidding system is operational, but only if that contract covers only services provided to the eligible school or library before December 31, 1998. We also conclude that an eligible school may not receive a federal universal service discount on services provided to it before 1998. In addition, we determine that the Commission will consult the members of the State Joint Board in FCC Docket No. 96-45 (96-45 Joint Board) before adopting any change in the discount matrix for schools and libraries.

**On July 18, 1997, the FCC issued a Second Order on Reconsideration in Docket Number 96-45. This reconsideration addressed the May 8, 1997, Universal Service Report and Order. In paragraph 57 the Second Order on Reconsideration stated:

As noted above, we reconsider, on our own motion, our decision to require [the]¹ administrator to select a subcontractor to manage the application process for eligible libraries and instead direct NECA (National Exchange Carrier Association, Inc.) to incorporate two not-for-profit, unaffiliated corporations which will be responsible for administering the schools and libraries and rural health care [funding programs] except for those matters directly relating to billing, collection and [distribution] of funds. Specifically, we conclude that the structure and carefully delineated respon[sibilities of] the corporations, as set forth herein, will provide for greater accountability and administration of the schools and libraries and rural health care programs than woul[d the] approach adopted earlier because a subcontractor, unlike the Corporations, would not [be] accountable to the Commission. Accordingly, as soon as possible following release of this Order, NECA shall incorporate the Corporations as unaffiliated, not-for-profit corpo[rations under] the laws of Delaware. The Corporations shall be designated

¹ Original text was lost in downloading and printing. Words have been inserted for the sake of clarity.

the Schools and Libraries' Corporation and Rural Health Care Corporation. NECA initially shall establish the S[chools and] Libraries and Rural Health Care Corporations and then take such steps as are necessary and] appropriate under Delaware and federal law to make the Corporations independent of, [and] unaffiliated with, NECA and USAC. We direct NECA to submit to the Commission for approval the proposed articles of incorporation, bylaws, and any documents necessary [to] incorporate the Corporations by August 1, 1997, in order to permit us to determine NECA's establishing the Corporations whether the requirements of this Order have been satisfied.

#32 Q: Is there any limit on the amount that service providers can charge eligible schools and libraries for services eligible for universal service discounts?

A: Yes. The Commission called the amount that service providers charge to schools and libraries prior to the application of a discount, the "pre-discount price." The Commission concluded that the pre-discount price cannot exceed the lowest price charged to similarly situated non-residential customers ("lowest corresponding price"). Carriers may not be selected to be a school's or library's provider of discounted services if the carriers submit bids higher than the lowest corresponding price. In areas in which there is no competition (i.e., only one provider), this lowest corresponding price would be the pre-discount price.

#33 Q: How does the Commission suggest resolving disputes over the lowest corresponding price that may arise between providers and schools or libraries?

A: The Commission concluded that schools or libraries should be allowed to seek recourse from the Commission if a complaint involves interstate rates, and from a state commission if a complaint involves intrastate rates.

#34 Q: Will the Commission's competitive bidding process take the place of state and local competitive bidding requirements?

A: No. The submission of a description of services for posting on the administrator's website is in no way intended as a substitute for state, local, or other procurement processes.

#35 Q: How detailed a description of services must a school or library submit?

A: The Commission will require schools and libraries to submit descriptions of services that are detailed enough to allow providers to evaluate reasonably the requests and submit bids. This approach is consistent with the Commission's efforts to ensure that all eligible schools and libraries have the opportunity to participate in the universal service discount program. Schools and libraries may, however, submit formal and more detailed requests for proposals (RFPs), if that is required or is most consistent with their own state or local procurement requirements.

#36 Q: Who is preparing the applications that schools and libraries will submit to the universal service administrator?

A: The Commission is working with the U.S. Department of Education and the states to design the schools and libraries applications.

#37 Q: Must schools and libraries apply for discounts each year?

A: Yes. In order to ensure that the greatest number of schools and libraries are able to participate in the universal service discount program, the Commission concluded that schools and libraries should be required to apply each year to participate in the program.

VII. Implementation

#38 Q: When can schools and libraries begin applying for discounted services?

A: For this first year of the program, applications for discounted services will be accepted as soon as the schools and libraries website is open and the applications are available.

#39 Q: Does that mean that schools and libraries will not be able to submit applications beginning on July 1st of this year?

A: Yes. The Commission stated that, generally, schools and libraries will not be able to apply before July 1st for funding that will become available on the following January 1st. This requirement was designed to ensure that the first come, first served process proceeds smoothly from year to year. For this first year of the program, however, administrative structures must be put in place before applications can be accepted. In addition, the Commission is currently working with the U.S. Department of Education to design the schools and libraries applications. The date on which applications will become available is still undetermined.

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

November 7, 1997

IN RE: UNIVERSAL SERVICE
GENERIC CONTESTED CASE

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) DOCKET NO. 97-00888
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**ORDER ESTABLISHING PROCEDURES FOR LIFELINE CONSENTS PURSUANT TO
SECTION 214(e) OF THE TELECOMMUNICATIONS ACT OF 1996 AND FCC ORDER 97-157**

This matter came before the Tennessee Regulatory Authority (the Authority) upon its own motion at a regularly scheduled conference held on October 21, 1997, pursuant to 47 U.S.C. § 214(e) of the *Telecommunications Act of 1996* and *Federal Communications Commission (FCC) Order 97-157*. The purpose of this Order is to authorize the reduction of intrastate rates to the end-user.

Background for the Order

In February, 1996, the United States Congress passed the *Telecommunications Act of 1996* ("Telco Act"). The *Telco Act* was enacted to further competition and reduce regulation for American telecommunications consumers. As a part of the *Telco Act*, a provision was made for preservation of Universal Service under § 254. Such preservation of Universal Service would provide a funding mechanism to ensure access to telecommunications services for low-income, rural, insular and high cost areas at a cost comparable to those in urban areas for similar services. The responsibility for implementing the *Telco Act* was delegated to the FCC, and on May 8, 1997, the FCC issued its *Report and Order, FCC Order No. 97-157 (Docket Number 96-45)*, implementing key portions of *Section 254* of the *Telco Act* which addresses Universal Service.¹ The order concluded several things, including identification of services

¹ The paragraphs addressed are 424 through 606 of the *Report and Order*.

to be supported by Federal Universal Service funding and the mechanisms whereby such funding will be provided. An increase in Federal Lifeline support is among the items earmarked for Federal funding.



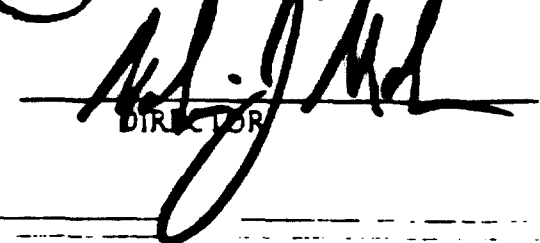
Discussion

In the *Telco Act*, Congress directed the FCC and the State Commissions to take steps necessary to establish support mechanisms to ensure the delivery of affordable telecommunications service to all Americans, including low-income consumers, eligible schools and libraries, and rural healthcare providers. The FCC Order provides that Lifeline customers will receive \$3.50 in Federal support without a state matching requirement, beginning January 1, 1998. In states which accept an equivalent reduction (\$1.75) in the portion of intrastate local rates paid by the end-user, Lifeline customers will receive an additional \$1.75 in Federal support bringing the Federal contribution to \$5.25. The current state Lifeline discount of \$3.50 meets the requirements necessary to receive an additional \$1.75 in Federal support, which brings the total Federal support to \$7.00. Public Notice DA 97-1892 (Attachment A) specifies that the additional \$1.75 of Federal support will not be provided until the states inform the Universal Service Administrative Company ("USAC"), Sheryl Todd of the FCC, and the Office of the Secretary of the FCC that they have accepted the equivalent \$1.75 reduction of intrastate local rates. The Authority will notify the USAC, the Secretary of the FCC and Ms. Sheryl Todd of the FCC pursuant to Public Notice DA 97-1892 in a one page letter, by December 31, 1997, that the Authority accepts the \$1.75 reduction in the portion of intrastate local rates paid by end-users (Attachment B).

The Authority authorized the \$1.75 reduction in the portion of intrastate rates paid by end-users to obtain the \$5.25 in Federal Lifeline support; and discussed provisions that the FCC be notified that the State of Tennessee will continue to provide \$3.50 in state support to receive the one half (1/2) Federal match of \$1.75, to receive total Federal support of \$7.00; and that the intrastate Lifeline support when combined with the Federal Lifeline support shall not exceed the total of the subscriber line charge and the applicable local service rate charged to a Lifeline customer.

IT IS THEREFORE ORDERED THAT:

1. Upon consideration, the Authority accepts the equivalent \$1.75 reduction in the portion of intrastate local rates paid by end-users to obtain the \$5.25 in Federal support.
2. The Authority will notify the USAC, the Secretary of the FCC and Ms. Sheryl Todd of the FCC pursuant to Public Notice DA 97-1892 in a one page letter, by December 31, 1997, that the Authority accepts this \$1.75 reduction in the portion of intrastate local rates paid by end-users. By adopting this reduction, the Authority does not waive the right to file an appeal on matters contained in the FCC Order with the appropriate court of law or other entity.
2. The Authority will notify the FCC that the State of Tennessee will continue to provide \$3.50 in state support to receive the one half (1/2) Federal match of \$1.75, therefore, to receive total Federal support of \$7.00
3. The intrastate Lifeline support when combined with the Federal support shall not exceed the total of the subscriber line charge and the applicable local service rate charged to a Lifeline customer.
4. Any party aggrieved with the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within ten (10) days from and after the date of this Order.
5. Any party aggrieved with the Authority's decision in this matter has the right of judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this Order.


CHAIRMAN

DIRECTOR

DIRECTOR

ATTEST:


EXECUTIVE SECRETARY

 **PUBLIC NOTICE**

Federal Communications Commission
1919 - M Street, N.W.
Washington, D.C. 20554

News media information 202 / 418-0500
Fax-On-Demand 202 / 418-2830
Internet: <http://www.fcc.gov>
<ftp.fcc.gov>

Approved by OMB
3060-0793
Expires 03/31/98
Avg. burden hours per response: 1.25 hours

DA 97-1892
Released September 29, 1997

**COMMON CARRIER BUREAU ANNOUNCES PROCEDURES FOR STATES
REGARDING LIFELINE CONSENTS, ADOPTION OF INTRASTATE DISCOUNT
MATRIX FOR SCHOOLS AND LIBRARIES, AND DESIGNATION OF ELIGIBLE
TELECOMMUNICATIONS CARRIERS**

On May 8, 1997, the Commission released Federal-State Joint Board on Universal Service, *Report and Order*, CC Docket No. 96-45, FCC 97-157 (Order). In that Order, the Commission adopted rules providing funding for discounts to eligible schools and libraries and support for low-income customers. The Commission also adopted rules mandating that state commissions designate common carriers as eligible telecommunications carriers for service areas selected by state commissions in accordance with section 214(e). In this public notice, the Common Carrier Bureau announces procedures that states must follow in order to receive universal service support.

Lifeline. In the Order, the Commission concluded that a revised Lifeline program shall be available in all states. The Commission held that Lifeline customers will receive \$3.50 in federal support without a matching requirement, beginning January 1, 1998. In states that accept an equivalent reduction in the portion of intrastate local rates paid by the end-user, Lifeline customers will receive an additional \$1.75 in federal support above the current \$3.50 level. In addition, the Commission will provide federal support equal to one half of any support generated by state commission action, up to a maximum of an additional \$1.75 in federal support, provided that the state commission approves this additional reduction in local service rates charged to Lifeline customers. To accept increased Lifeline support, states must send a one-page letter authorizing the reduction of intrastate rates to the Universal Service Administrative Company (USAC). A copy of the letter must also be sent to Sheryl Todd and the Office of the Secretary at the Federal Communications Commission. Letters must be received by the Office of the Secretary by December 31, 1997 to be eligible for increased support beginning January 1, 1998. States may file the letter after December 31, 1997 but those states' Lifeline customers will not be eligible for increased support beginning January 1, 1998. The purpose of this letter is simply to notify the Commission that a state approves the reduction in the portion of the intrastate rate paid by the Lifeline customer. In a separate filing sent to the Administrator by December 31, 1997,

state commissions or carriers must demonstrate that the carrier's Lifeline plan complies with the Commission's rules and state the number of qualifying low-income consumers and the amount of state assistance (see 47 C.F.R. § 54.401(d)).

Schools and Libraries. As a condition of eligibility for federal universal service support for schools and libraries in a state, the Commission concluded that each state must adopt an intrastate discount matrix with entries at least equal to those of the interstate discount matrix. To notify the Commission that a compliant intrastate discount matrix for schools and libraries has been adopted, states must send a one-page letter to USAC stating this fact. A copy of the letter must also be sent to Sheryl Todd and the Office of the Secretary at the Federal Communications Commission. States should include a copy of the adopted intrastate discount matrix. Letters regarding the discount matrix must be received by the Office of the Secretary by December 31, 1997 to be eligible for funding beginning January 1, 1998.

Eligible Telecommunications Carriers. Section 214(e)(2) requires state commissions, either upon their own motion or upon request, to designate common carriers as eligible telecommunications carriers for service areas selected by the state commission. In addition, states must designate areas served by non-rural carriers. USAC will need the names of eligible telecommunications carriers and designated service areas for non-rural carriers in order to administer the universal service programs. Therefore, states should submit a list of eligible telecommunications carriers and the service areas that non-rural carriers are required to serve as soon as possible and in no event later than December 31, 1997, in order for carriers to be eligible for funding for high cost, low-income, and health care support, beginning January 1, 1998, except as set forth in 47 C.F.R. §54.621(a). Copies of the information must also be sent to Sheryl Todd and the Office of the Secretary at the Federal Communications Commission.

All correspondence addressed to USAC should be mailed to: 100 South Jefferson Rd., Whippany, N.J. 07981. All correspondence addressed to Sheryl Todd should be mailed to: Federal Communications Commission, Universal Service Branch, CC Docket No. 96-45, 8th Floor, 2100 M Street, N.W., Washington, D.C. 20554. All correspondence addressed to the Office of the Secretary should be mailed to: CC Docket No. 96-45, Federal Communications Commission, Room 222, 1919 M Street, N.W., Washington, D.C. 20554.

For further information, contact: Kim Parker (202) 418-7393.

Paperwork Reduction Act Requirement

The Telecommunications Act of 1996 directed the Commission to initiate a rulemaking to reform our system of universal service so that universal service is preserved and advanced as markets move toward competition. In the Report and Order on Universal Service (released May 8, 1997), the Commission adopted rules that are designed to implement the universal service provision of section 254. States must send a letter authorizing the reduction of intrastate rates. Each state must adopt an intrastate discount matrix with entries at least equal to those of the interstate discount matrix and send a notification letter indicating that it has done so. States must submit a list of carriers designated as eligible telecommunications carriers and the service areas such non-rural carriers are required to serve. All the

requirements are necessary to implement the congressional mandate for universal service. These reporting requirements are necessary to verify that particular carriers and other respondents are eligible to receive universal service support.

We have estimated that each response to this collection of information will take, on average, 1.25 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERF, Washington, DC 20554, Paperwork Reduction Project (3060-0793). We will also accept your comments via the Internet if you send them to jboley@fcc.gov. Please **DO NOT SEND COMPLETED APPLICATION FORMS TO THIS ADDRESS.**

Remember — You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0793.

This notice is required by the Privacy Act of 1974, P.L. 93-579, December 31, 1974, 5 U.S.C. Section 552a(e)(3) and the paperwork Reduction Act of 1995, P.L. 104-13, October 1, 1995, 44 U.S.C. 3507."

TENNESSEE REGULATORY AUTHORITY

Lynn Greer, Chairman
Sara Kyle, Director
Melvin Malone, Director



460 James Robertson Parkway
Nashville, Tennessee 37243-0505

November 7, 1997

Administrator
Universal Service Administrative Company
100 South Jefferson Road
Whippany, NJ 07981


Attachment B

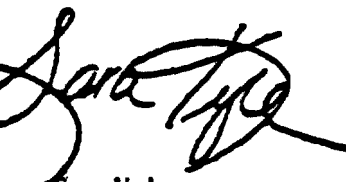
Re: Notification required by Public Notice DA97-1892 of acceptance by the State of Tennessee of the \$1.75 reduction in the portion of intrastate rates paid by end users.

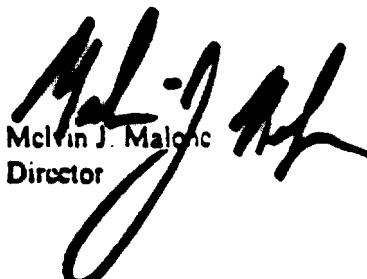
Dear Sir or Madam:

This letter is to advise you that on October 21, 1997, the Tennessee Regulatory Authority ("Authority") met in a regularly scheduled Conference. At the Conference the Authority accepted the \$1.75 reduction in the portion of intrastate rates paid by end users to obtain the \$5.25 in Federal Lifeline support. The Authority also Ordered that the FCC be notified that the State of Tennessee will continue to provide \$3.50 in state support to receive the 1/2 Federal match of \$1.75. Further, that the intrastate Lifeline support when combined with the Federal Lifeline support shall not exceed the total of the subscriber line charge and the applicable local service rate charged to a Lifeline customer.

Sincerely,


H. Lynn Greer, Jr.
Chairman


Sara Kyle
Director


Melvin J. Malone
Director

cc: Office of the Secretary
Federal Communications Commission
1919 M Street, NW
Room 222
Washington, D.C. 20554

Ms. Sheryl Todd
Federal Communications Commission
2100 M Street, NW
Room 8611
Washington, D.C. 20554

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

November 3, 1997

IN RE: UNIVERSAL SERVICE
GENERIC CONTESTED CASE

)
)
) DOCKET NO. 97-00888
)
)
)

ORDER ESTABLISHING PROCEDURES FOR SELF-CERTIFICATION OF RURAL
TELEPHONE COMPANIES PURSUANT TO SECTION 153(37) OF
THE COMMUNICATIONS ACT, AS AMENDED, AND FCC ORDER 97-157

This matter came before the Tennessee Regulatory Authority (the Authority) upon its own motion at a regularly scheduled conference held on October 21, 1997, pursuant to 47 U.S.C. § 153(37) of the *Communications Act, as amended*, and *Federal Communications Commission (FCC) Order 97-157 and Public Notice DA97-1748(as corrected)*. Attached as Exhibit 1. The purpose of this Order is to establish uniform procedures for self-certification of rural telephone companies.

Background for the Order

In February, 1996, the United States Congress passed the *Telecommunications Act of 1996* ("Telco Act"). The *Telco Act* was enacted to further competition and reduce regulation for American telecommunications consumers. As a result of the passage of the *Telco Act*, Congress delegated the responsibility for Universal Service to the FCC. The resulting *Universal Service Order, FCC 97-157*, established that, beginning January 1, 1999, rural and non-rural local exchange carriers (LECs) would receive federal universal service support determined by separate mechanisms. In the *Universal Service Order*, the FCC stated that in order for a LEC to be considered a rural carrier, it must meet the definition of a rural telephone company in *Section 3(37) of the Communications Act, as amended (47 U.S.C. § 153(37))*.

Exhibit D

Discussion

In the *Telco Act*, Congress directed the FCC and State Commissions to take steps necessary to establish support mechanisms to ensure the delivery of affordable telecommunications service to all Americans. *Section 3(37) of the Communications Act, as amended*, states that the term "rural telephone company" means a local exchange carrier operating entity to the extent that such entity:

(A) provides common carrier service to any local exchange carrier study area that does not include either:

(i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993:

(B) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(C) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(D) has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the *Telecommunications Act of 1996*.

Under provisions of *Public Notice DA97-1748(as corrected)*, any LEC that seeks to be classified as a rural carrier must file a letter, with the FCC, by April 30th of each year, notifying the FCC that the LEC certifies itself to be a rural telephone company and explaining how the carrier meets at least one of the four criteria in the statutory definition. The carrier should also file information supporting its explanation, for example, the number of lines the carrier serves, and state whether it is certified as a rural carrier in its state. The Authority does not certify rural carriers, and applicants should so inform the FCC. All self-certifications will be subject to random verifications of the information provided at any time.


By June 30th of each year, the FCC will acknowledge receipt of the carrier's self-certification as a rural carrier. The FCC will also send the list of carriers certified as rural telephone companies to the Universal Service Administrator by July 31st of each year. If a carrier's status changes so that it becomes

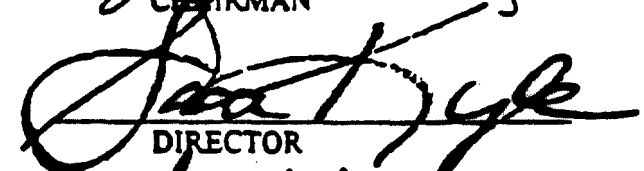
ineligible for certification as a rural carrier, that carrier must inform the FCC and the Universal Service Administrator within one month of the change in status.

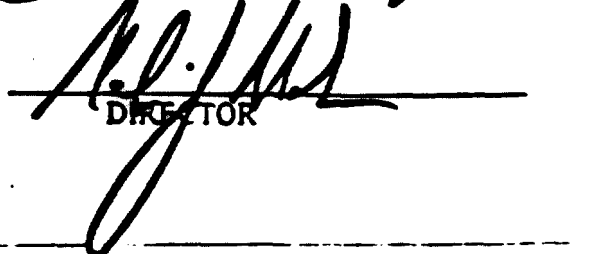
The notifications of self-certification as a rural telephone company must be sent by April 30th of each year to Sheryl Todd, Universal Service Branch, Accounting and Audits Division, Federal Communications Commission, 2100 M. St., N.W., 8th Floor, Washington, D.C. 20554.

IT IS THEREFORE ORDERED THAT:

1. Any carriers seeking certification as a Rural Telephone Company must file a copy of its FCC self-certification letter (due to the FCC each April 30th) with the Authority.
2. Any carrier notifying the Universal Service Administrator of a change in eligibility as a rural carrier, must file a copy of that notification with this Authority.
3. Any party aggrieved with the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within ten (10) days from and after the date of this Order.
4. Any party aggrieved with the Authority's decision in this matter has the right of judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from and after the date of this Order.


CHAIRMAN


DIRECTOR


DIRECTOR

ATTEST:


EXECUTIVE SECRETARY



PUBLIC NOTICE

Exhibit

Federal Communications Commission
1919 - M Street, N.W.
Washington, D.C. 20554

News media information 202 / 418-0500
Fax-On-Demand 202 / 418-2830
Internet: <http://www.fcc.gov>
<ftp.fcc.gov>

Released September 22, 1997
DA 97 1748

Approved by OMB
3060-0793
Expires 03/31/98

Avg. burden hours per response: 1.25 hours

SELF-CERTIFICATION AS A RURAL TELEPHONE COMPANY Correction

The Universal Service Order, FCC 97-157 (rel. May 8, 1997), established that, beginning January 1, 1999, rural and non-rural local exchange carriers (LECs) would receive federal universal service support determined by separate mechanisms. Although non-rural LECs will begin receiving federal support based on a forward-looking economic cost mechanism in 1999, rural LECs will continue to receive universal service support, from federal universal service mechanisms, based on their embedded costs at least until 2001. In the Universal Service Order, the Commission stated that in order for a LEC to be considered a rural carrier, it must meet the definition of a rural telephone company in section 3(37) of the Communications Act, as amended (47 U.S.C. § 153(37)).

Section 3(37) states that the term "rural telephone company" means a local exchange carrier operating entity to the extent that such entity—

(A) provides common carrier service to any local exchange carrier study area that does not include either—

(i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

(B) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(C) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(D) has less than 15 percent of its access lines in communities of more than 50,000 on the date of enactment of the Telecommunications Act of 1996.